

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

HEMPFIELD SCHOOL DISTRICT,
Plaintiff

v.

P.M.C., by and through his parents,
P.C. and S.C., in their own right,
Defendants

Civil Action No. _____

COMPLAINT

1. Plaintiff, Hempfield School District, files this Complaint in the nature of an appeal pursuant to the Individuals with Disabilities Education Improvement Act of 2004 (“IDEA”), P.L. 108-446, 118 STAT. 2647-2808 (Dec. 3. 2004), 20 U.S.C. §§1401-1482, from a final administrative decision dated August 6, 2019.

2. This Court has jurisdiction pursuant to federal question jurisdiction, 28 U.S.C. § 1331 and pursuant to express authorization in the IDEA, 20 U.S.C. §1415(i)(3)(A).

3. Defendant, P.M.C., is 17 years old, a minor and a resident of the Hempfield School District (hereinafter “District”) where he resides with his Parents, P.C. and S.C. (hereinafter “Parents”), in East Petersburg, Pennsylvania.

4. P.M.C. has been identified by the District as eligible for accommodations under Section 504 of the Rehabilitation Act since March 2017. He has received accommodations pursuant to a Student Accommodation Plan since that time.

5. P.M.C. is also identified as mentally gifted, and has received specially designed instruction through a Gifted Individual Education Program (“GIEP”). Throughout high school he has maintained an ambitious schedule of advanced placement, honors, and college prep

classes. In both his freshman and sophomore years, he earned A's and B's for final grades, save for a C+ in math.

6. During P.M.C.'s junior year, on January 11, 2019, P.M.C. violated school district policy by possessing and distributing a controlled substance on an overnight trip with the school district's swim team. The overnight trip was a school-sponsored event, and had been approved by the School Board. P.M.C. admitted that he brought marijuana and a smoking device on the overnight trip, and smoked the marijuana with a teammate in a hotel room bathroom. P.M.C. also admitted that he consumed edible marijuana that was supplied by the same teammate that P.M.C. smoked with.

7. P.M.C. was suspended for ten days and was notified of the school district administration's recommendation for expulsion, consistent with school district policy for distribution of a controlled substance.

8. On January 17, 2019, P.M.C., through counsel, requested an evaluation to determine IDEA eligibility. The District agreed to evaluate, and held any expulsion proceedings in abeyance while undertaking the IDEA evaluation.

9. On March 14, 2019, the District issued an Evaluation Report ("ER") finding that P.M.C. does not meet the criteria for any IDEA disability and does not require specially designed instruction, and is therefore not eligible under the IDEA. The ER finds, however, that P.M.C. continues to have a disability under Section 504 and remains eligible for a Student Accommodation Plan.

10. On March 24, 2019, P.M.C., through his parent and with the assistance of counsel, commenced an administrative special education due process hearing against the District under the IDEA. The due process complaint alleges that P.M.C. should be found eligible under

the IDEA, that he should not be subject to expulsion because his drug possession and distribution was a manifestation of his disability, and that he should be provided with compensatory education.

11. On March 29, 2019, the District and Parents convened a meeting to review the District's ER, to revise P.M.C.'s Section 504 Student Accommodation Plan, and to conduct a Manifestation Determination meeting to determine if P.M.C.'s conduct was caused by his disability. At the conclusion of the meeting, the District notified the Parents that it had found that the drug possession and distribution was not caused by P.M.C.'s disability. Formal written notice of this determination was sent to Parents on April 5, 2019.

12. The administrative hearing was bifurcated by the Office for Dispute Resolution ("ODR"), the Commonwealth's designated special education due process hearing coordinator, into two different matters. One, ODR No. 21969 / 18-19 KE on an expedited timeline based upon P.M.C.'s discipline allegations, and another ODR No. 22050 / 18-19 KE on a non-expedited timeline on the issues of IDEA eligibility and compensatory education. ODR assigned both hearings to hearing officer Michael "Jake" McElligott, Esquire ("Hearing Officer").

13. The expedited hearing was convened on April 9, 2019. The sole issue at the expedited hearing was whether P.M.C. met the IDEA criteria as a student entitled to discipline protections as "thought to be eligible" at the time of the discipline.

14. On April 25, 2019, the Hearing Officer issued a written decision on the expedited matter finding that P.M.C. is not "thought to be" eligible under the IDEA at the time of the discipline, and is therefore not entitled to IDEA discipline protections.

15. On June 11, 2019, the School Board voted to expel P.M.C. for the 2019-2020 school year for his violation of school district policy prohibiting the possession and distribution

of illegal drugs at school sponsored activities. This followed a formal evidentiary hearing held on April 30, 2019 pursuant to Section 1318 of the Pennsylvania Public School Code.

16. The non-expedited administrative hearing was convened on June 21 and 25, 2019. The Hearing Officer heard testimony from the District's evaluators – psychologist Erik Kichner and speech and language pathologist Danielle Campbell, the Parents' private evaluator Joseph Lucas Psy.D, counselor Kandace Dacosta, and the parent.

17. On August 6, 2019, the Hearing Officer issued a written decision on the non-expedited hearing. The Hearing Officer re-affirmed the District's determination that P.M.C.'s drug possession and distribution was not a manifestation of P.M.C.'s disability. He therefore took no actions to halt the District's expulsion of P.M.C.

18. But the Hearing Officer determined that P.M.C. should have been found IDEA eligible for ADHD in March 2018 because of difficulty with organization and task completion. As a result, the Hearing Officer ordered the District to provide eighty hours of compensatory education. He also ordered the District to convene an IEP team meeting to develop an IEP and to provide P.M.C. instruction on organization, task-approach, and task-completion.

19. The statutory appeal period on both the expedited due process hearing and the school district's expulsion decision have elapsed without a timely appeal by P.M.C. or his Parents.

20. The Hearing Officer's non-expedited decision contains egregious reversible errors of both law and fact. The Hearing Officer's logic is faulty, and his conclusion has no correlation to the factual record before him. Accordingly, the District hereby appeals the non-expedited ruling at ODR No. 22050 / 18-19 KE.

IDEA ELIGIBILITY DETERMINATION

21. The District completed a comprehensive IDEA evaluation, and concluded that P.M.C. did not meet the criteria for IDEA eligibility. The evaluation includes standardized ability and achievement testing, parent and teacher input, a record review, rating scales administered to teachers, parents, and to the student, observations by the evaluators, a speech evaluation, executive function assessments, and semi-structured assessment tools.

22. The evaluation concludes that P.M.C. does not meet the IDEA criteria for autism, does not meet the IDEA criteria for an emotional disturbance, and does not meet the IDEA criteria for an “Other Health Impairment.” For all three categories, the evaluation explains why P.M.C. does not meet the IDEA eligibility criteria.

23. The Hearing Officer erroneously concluded that P.M.C. should instead have been found IDEA eligible. This is an error of law.

24. The Hearing Officer’s decision identifies no fault with the District’s evaluation, other than its conclusion. His decision is devoid of any legal citation to the criteria for an appropriate evaluation under the IDEA. He conducted no analysis of whether the District’s evaluation complies with that IDEA criteria.

25. The Hearing Officer concludes that P.M.C. meets the IDEA criteria for “Other Health Impairment”, but he fails to even consider the eligibility criteria for “OHI.” Despite detailed reasoning in the evaluation as to why P.M.C. does not meet the OHI criteria based upon multiple data sources (rating scales, cognitive assessment, academic assessment, ADHD specific rating scales, teacher reports, classroom observation), the Hearing Officer provides no reasoning or rationale for why he considered those data sources to be inaccurate.

26. The Hearing Officer's sole contention on IDEA eligibility is a conclusory statement that P.M.C. should have been identified as a student with the health impairment of Attention Deficit Hyperactivity Disorder ("ADHD"). The Hearing Officer decision contains no discussion about the diagnostic criteria for ADHD, and whether P.M.C. meets that criteria. The Hearing Officer simply substituted his judgement for that of professional evaluators. This is an error of law and an abuse of discretion.

27. The Hearing Officer's erroneous conclusion that P.M.C. has ADHD is even more perplexing given that both the District's psychologist and the parents' evaluator agree that P.M.C. does not have ADHD. The Hearing Officer's stunning diagnosis of ADHD stands in contrast to the testimony of both the neuropsychologist and certified school psychologist, both of whom relied upon standardized measures to reach their conclusion that P.M.C. does not have ADHD¹.

28. The private neuropsychologist had also determined in 2017 that testing results were "conclusive that [P.M.C.] did not display significant neurocognitive symptoms that would be indicative of an attention deficit hyperactivity disorder...."

29. P.M.C. does not have ADHD.

30. The Hearing Officer's erroneous ADHD diagnosis is premised upon what he alleges is a "deep" need for "goal-driven instruction in organization, task-approach, and task completion." Yet the District's evaluation includes standardized measures of these precise skills, all of which show age-appropriate executive function skills. The Parents' private evaluator agreed, concluding that P.M.C. exhibited good planning and organizational skills. The Hearing

¹ P.M.C. was diagnosed with ADHD by a private evaluator in January 2017, which was relied upon by the District, but that diagnosis was ruled out later in 2017. The current evaluators both agree that P.M.C. does not have ADHD.

Officer fails to mention, explain away, or to discount the conclusions of these professionals, and instead substituted his own judgment. This too is an error of law.

BURDEN OF PROOF

31. The Hearing Officer erred as a matter of law when he failed to assign the burden of proof to the Parents, in accordance with the Supreme Court's ruling in *Schaffer v. Weast*, 546 U.S. 49, 126 S. Ct. 528, (2005).

32. The Hearing Officer's decision contains no reference to the burden of proof.

33. The Parents, relying upon expert testimony from Joseph Lucas, Psy.D., argued that P.M.C. meets the IDEA eligibility criteria for autism, not ADHD. The Hearing Officer rejected this contention, concluding that "nothing in this record would lead any reader to conclude that the student might be diagnosed with autism (mild or otherwise.)".

34. Despite rejecting the chief argument espoused by the Parents, the Hearing Officer erred as a matter of law by failing to then conclude that Parents did not meet their burden to prove IDEA eligibility. Instead, the Hearing Officer erroneously substituted his own judgement to conclude that P.M.C. has the disability of ADHD (despite significant testing data and multiple credentialed evaluators who contend otherwise).

5 DAY RULE

35. The Hearing Officer erred as a matter of law when he admitted into evidence Parents' expert report that was not disclosed at least five business days prior to the hearing, in contravention of 20 U.S.C. 1415(f)(2), 34 C.F.R. § 300.512, and 22 Pa. Code § 14.162(k), commonly referred to as the "5 Day Rule" requiring all evidence and expert reports to be disclosed at least five days prior to the start of a due process hearing.

36. The private report was provided to District's counsel on the evening of June 18, 2019. The hearing began on June 21, 2019.

37. The Hearing Officer inquired of the parties whether they had complied with the 5 Day Disclosure Rule. Despite a timely objection from the District and a clear violation of the statute, the Hearing Officer could not bring himself to follow the law and not allow the untimely report. He stated on the record "If that's a reversible procedural error, then so be it".

38. The Hearing Officer erroneously reasoned that the five day rule is a mere procedural issue that can be disregarded when a Hearing Officer feels that the substantive issues are too important, when similar substantive issues are present in every IDEA hearing. It is a blatant legal error for the Hearing Officer to disregard the 5 day mandate enacted by Congress.

MANIFESTATION DETERMINATION

39. The Hearing Officer erred as a matter of law when he concluded that the District committed a procedural violation by failing to conduct a manifestation determination for P.M.C. This aberrant ruling exhibits a fundamental misunderstanding of the IDEA discipline protections, which are only available to students either found eligible or "thought to be" eligible at the time the discipline occurs.

40. In the expedited due process hearing, the Hearing Officer determined that P.M.C. was not "thought to be" eligible under the IDEA at the time of the discipline incident. Accordingly, P.M.C. was not entitled to an IDEA manifestation determination as a matter of law.

41. Moreover, the Hearing Officer's factual conclusion about the "lack of a manifestation determination meeting" and "not holding a manifestation determination process" is erroneous and plainly contradicted by the record. P.M.C. *was* provided with a manifestation determination process.

42. The parties convened on March 29, 2019, with counsel present, and discussed the disabilities at issue and whether the conduct of possessing, distributing and smoking marijuana was a manifestation of any of those disabilities. The District concluded that it was not a manifestation of P.M.C.'s disabilities.

43. The Hearing Officer agreed with the District that the conduct for which discipline was imposed was not a manifestation of P.M.C.'s disability.

COMPENSATORY EDUCATION

44. The Hearing Officer erred as a matter of law when he awarded compensatory education to P.M.C.

45. Compensatory education is an equitable remedy that is not designed to punish school districts. Rather, it is supposed to place the student in the position that the student would be in had the school district provided the appropriate services in the first place.

46. The Hearing Officer concluded that P.M.C. has shown "excellent academic progress" and has exhibited "strong academic achievement." The record shows excellent grades in advanced and honors classes.

47. Standardized assessments of organization and task management show age appropriate skills. P.M.C. himself reports that he has a system to keep his school work organized, and to keep track of upcoming assignments.

48. Yet the Hearing Officer erroneously concluded that P.M.C. requires compensatory education for instruction in these same tasks. The need for compensatory education is contradicted by the record, and by the Hearing Officer's own findings of excellent academic progress.


WHEREFORE, Plaintiff, Hempfield School District, respectfully requests that this Honorable Court:

- a. receive the administrative record;
- b. reverse the Hearing Officer's Decision and Order based upon the errors identified above;
- c. enter judgment in Plaintiff's favor and against Defendants; and
- d. award the costs of this action and such further relief in favor of Plaintiff as this Court deems necessary or appropriate.

SWEET, STEVENS, KATZ & WILLIAMS, LLP

Date: August 29, 2019

By:


Mark Cheramie Walz, Esquire PA 204356
331 East Butler Avenue, P. O. Box 5069
New Britain, Pennsylvania 18901
(215) 345-9111

Counsel for Plaintiff,
Hempfield School District

JS 44 (Rev. 02/19)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Hempfield School District

(b) County of Residence of First Listed Plaintiff Lancaster

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Mark W. Cheramie Walz, Esquire - Sweet Stevens Katz & Williams, LLP
331 East Butler Avenue, New Britain, PA 18901
215-345-9111

DEFENDANTS

P.M.C., by and through his parents, P.C. and S.C. in their own right

County of Residence of First Listed Defendant Lancaster

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

Daniel M. Fennick, Esquire
1423 East Market Street, York, PA 17403
717-846-7100

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
 IDEA of 2004, P.L. 108-446, 118 STAT. 2647-2808 (Dec. 3, 2004), 20 U.S.C. §§1401-1482

Brief description of cause:
 Appeal from an administrative decision dated 8/6/2019

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

8/20/19

SIGNATURE OF ATTORNEY OF RECORD

Mark W. Cheramie Walz

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DESIGNATION FORM

(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff: 200 Church Street, Landisville, PA 17538

Address of Defendant: 2200 Hershey Avenue, East Petersburg, A 17520

Place of Accident, Incident or Transaction: _____

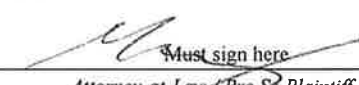
RELATED CASE, IF ANY:

Case Number: _____ Judge: _____ Date Terminated: _____

Civil cases are deemed related when **Yes** is answered to any of the following questions:

- | | | |
|--|------------------------------|--|
| 1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |

I certify that, to my knowledge, the within case ☐ is / ☒ is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 8/29/19  204356
Must sign here
 Attorney-at-Law / Pro Se Plaintiff Attorney I.D. # (if applicable)

CIVIL: (Place a ✓ in one category only)

A. Federal Question Cases:

- ☐ 1. Indemnity Contract, Marine Contract, and All Other Contracts
- ☐ 2. FELA
- ☐ 3. Jones Act-Personal Injury
- ☐ 4. Antitrust
- ☐ 5. Patent
- ☐ 6. Labor-Management Relations
- ☒ 7. Civil Rights
- ☐ 8. Habeas Corpus
- ☐ 9. Securities Act(s) Cases
- ☐ 10. Social Security Review Cases
- ☐ 11. All other Federal Question Cases
(Please specify): _____

B. Diversity Jurisdiction Cases:

- ☐ 1. Insurance Contract and Other Contracts
- ☐ 2. Airplane Personal Injury
- ☐ 3. Assault, Defamation
- ☐ 4. Marine Personal Injury
- ☐ 5. Motor Vehicle Personal Injury
- ☐ 6. Other Personal Injury *(Please specify):* _____
- ☐ 7. Products Liability
- ☐ 8. Products Liability – Asbestos
- ☐ 9. All other Diversity Cases
(Please specify): _____

ARBITRATION CERTIFICATION

(The effect of this certification is to remove the case from eligibility for arbitration.)

I, Mark W. Cheramie Walz, counsel of record or pro se plaintiff, do hereby certify:

- ☐ Pursuant to Local Civil Rule 53.2, § 3(c) (2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs:
- ☒ Relief other than monetary damages is sought.

DATE: 8/29/19  204356
Sign here if applicable
 Attorney-at-Law / Pro Se Plaintiff Attorney I.D. # (if applicable)

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

HEMPFIELD SCHOOL DISTRICT,	:	
Plaintiff	:	
	:	
v.	:	Civil Action No. _____
	:	
P.M.C., by and through his parents,	:	
P.C. and S.C., in their own right,	:	
Defendants	:	

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus - Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security - Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration - Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos - Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management - Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management - Cases that do not fall into any one of the other tracks. (X)

8/29/2019	Mark W. Cheramie Walz, Esquire	Plaintiff
Date	Attorney-at-law	Attorney for
215-345-9111	215-348-1147	mwalz@sweetstevens.com
Telephone	FAX Number	E-Mail Address